

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADAM D. WHITE,

Plaintiff,

-against-

SHOLEM KLEIN, THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT ("NYPD") SERGEANT LEIGHTON BARRETT, NYPD SERGEANT KURT KLENKE, NYPD OFFICER AHMED ALI, NYPD OFFICER PALAKPREET KAUR, NYPD OFFICER ADAM PHILLIPS, NYPD OFFICER CARLOS REBOLLEDOCORTES, and NYPD OFFICER IKRAM ULLAH,

Defendants.

DEFENDANTS CITY, BARRETT, KLENKE, ALI, KAUR, PHILLIPS, REBOLLEDOCORTES AND ULLAH'S ANSWER TO THE CROSS-CLAIMS OF SHOLEM KLEIN

23-CV-06924 (BMC)

Jury Trial Demanded

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Defendants City of New York, Barrett, Klenke, Ali, Kaur, Phillips, Rebolledocortes, and Ullah ("City Defendants") by their attorney, **SYLVIA O. HINDS-RADIX**, Corporation Counsel of the City of New York, for their answer to the cross-claims pled in co-defendant Sholem Klein's answer to the Complaint, dated October 17, 2023, respectfully allege as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first cross-claim against defendants City of New York, Barrett, Klenke, Ali, Kaur, Phillips, Rebolledocortes, and Ullah.
2. Denies the allegations set forth in the second cross-claim against defendants City of New York, Barrett, Klenke, Ali, Kaur, Phillips, Rebolledocortes, and Ullah.

3. Denies the allegations set forth in the third cross-claim against defendants City of New York, Barrett, Klenke, Ali, Kaur, Phillips, Rebolledocortes, and Ullah.

FIRST AFFIRMATIVE DEFENSE:

4. Co-defendant Klein's cross-claims fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

5. Co-defendant Klein's cross-claims are not ripe for adjudication.

THIRD AFFIRMATIVE DEFENSE:

6. In response to the cross-claim for contribution, the liability of defendant City shall be limited to its equitable share in accordance with CPLR Article 16.

FOURTH AFFIRMATIVE DEFENSE:

7. Co-defendant Klein's cross-claims may be barred in whole or in part by reason of cross-claimant's failure to comply with the requirements of the New York General Municipal Law, §§ 50-e, 50-h and/or 50-i.

FIFTH AFFIRMATIVE DEFENSE:

8. Co-defendant Klein's cross-claims are barred by governmental immunity because the duties and functions of the City's officials concerning the questions of defense or indemnity under G.M.L. 50-k entail the reasonable exercise of proper and lawful discretion, and therefore, the City has governmental immunity from liability under state law.

SIXTH AFFIRMATIVE DEFENSE:

9. Any injury alleged to have been sustained by plaintiff was not the proximate result of any conduct on the part of the City Defendants but rather resulted, in whole or in part, from plaintiff's and/or co-defendant Klein's culpable, negligent, and/or intervening conduct.

SEVENTH AFFIRMATIVE DEFENSE:

10. City Defendants have not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have the City Defendants violated any Act of Congress providing for the protection of civil rights.

EIGHTH AFFIRMATIVE DEFENSE:

11. At all times relevant to the acts alleged in the Complaint, the City Defendants acted reasonably and in the proper exercise of their discretion.

WHEREFORE, defendants City of New York, Barrett, Klenke, Ali, Kaur, Phillips, Rebolledocortes, and Ullah request judgment dismissing the cross-claims pled in co-defendant Klein's answer to the Complaint in their entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
November 8, 2023

SYLVIA O. HINDS-RADIX
Corporation Counsel
of the City of New York
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Barrett, Klenke, Ali, Kaur, Phillips,
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/s/

By:

Joseph M. Hiraoka, Jr.
Senior Counsel
Special Federal Litigation Division

To: All Counsel (by ECF)